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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/624,305

Filing Date: July 22, 2003

Appellant(s): RUHE ET AL.

Steven R. Ormiston
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/16/2009 appealing from the Office action mailed 04/16/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 1-12 and 14-22 are pending. Claims 13 and 23-25 have been canceled.

Claims 1-11 and 18-22 have been withdrawn. Claim 12 has been rejected.

Claims 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. **To be exact**, Claim 12 stand rejected under Section 102 as being anticipated by Olson et al. (US 5,269,506).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,269,506 Olson et al. 12-1993

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Olson et al. (US 5,269,506).

Regarding claim 12, Olson '506 discloses a sheet media input structure (Separator 26, figs. 3-5) for a sheet media processing device (Printer 10, fig. 2), comprising:

a sheet media supporting surface (i.e., the top sheet engages the separator in a first surface region 40 and a second surface region 42; Col. 3, lines 63-64 and col. 4, lines 5-10, fig. 2);

a media sheet separator downstream from the supporting surface along a media path that extends from the supporting surface to and along the separator (As

paper is pulled into the input port, it is pinched between the separator and roller to effect separation of the sheets, col. 2, lines 62-66), the separator configured to separate a top sheet on the stack from a next-to-top sheet in the stack by resisting the movement of sheets along the media path (i.e., separator is configured so as to oppose input of second sheet 24b until after the top sheet 24a is taken completely into the printer; Col. 3, lines 57-60, fig. 2) and

wherein the separator (Separator 26, figs. 3-5) comprises a span of flexible material (pad 32 is **extending** forwardly therefrom a distance and the pad is formed from a material such as rubber, and is effective in selectively opposing passage of paper thereacross; see col. 3, lines 45-55) and a plurality of supports supporting the span (a plurality of upstanding portions 36 for holding in position and the varying frictional forces applied by the separator; see col. 3, lines 5-10 and lines 60-65), the supports oriented relative to one another (i.e., the pad, which extends in a region forward of the upstanding portion, opposes intake of the second sheet; Col. 1, line 68 and col. 2, lines 1-2) such that the degree of resistance of the separator to the movement of sheets along the media path varies along the length of the separator (A frictionally adherent pad is formed in operative association with the body so as to extend in a region forward of the upstanding portion and contact the second sheet to oppose intake thereof; see Abstract) from a greater resistance at an upstream part of the separator to a lesser resistance at a downstream part of the separator (i.e., paper-to-pad frictional force for the second sheet is thus greater than the paper-to-paper frictional

forces between the first and second sheets and the papers are separated as they enter the input port; Col. 4, lines 10-15).

(10) Response to Argument

Appellant, on page 7, brief, argues that upstanding portions 36 on body 30 do not support pad 32 and resilient pad 32 in Olson is not a span of flexible material.

In response: Olson discloses the upstanding portions 36 on body 30 support pad 32 (a plurality of upstanding portion 36 for holding in position, col. 3, lines 5-10). Fig. 3, 4, 5, clearly showing upstanding portions 36 is supporting resilient pad 32 and preventing the pad from moving. Fig. 3 also is showing pad 32 is spanning across upstanding portions 36 and the width of 30. Resilient pad 32 in Olson is made of flexible material (col. 3, lines 45-50) such as rubber.

Appellant, on the top of page 8, brief, argues that Olson does not teach supporting oriented relative to one another such that the degree of resistance varies along the length of the separator.

In response: Olson teaches supporting oriented relative to one another such that the degree of resistance varies along the length of the separator (in the varying frictional forces applied by the separator in different regions, col. 3, lines 60-69, column 4 lines 1-5). In particular column 4, lines 105 further teaches the support portion 36 has less

friction and the reference and physic suggested the orientation of the supporting portion 36 will create degree of resistance varies along the length of the separator. The pad portion that don't have the support portion 36 has more friction.

Appellant, on the top of page 8, brief, argues that Olson does not teach a span of flexible material.

In response: Olson teaches a span of flexible material (pad 32 is **extending** forwardly therefrom a distance and the pad is formed from a material such as rubber, and is effective in selectively opposing passage of paper thereacross; see col. 3, lines 45-55) spanning across upstanding portion 36 and the width of 30, fig. 3, 4, 5.

Appellant, on the top of page 8, brief, argues that Olson does not teach a plurality of supports supporting the span.

In response: Olson teaches a plurality of supports supporting the span (a plurality of upstanding portions 36 for holding in position and the varying frictional forces applied by the separator; see col. 3, lines 5-10 and lines 60-65) Fig. 3-5 also clearly suggested that upstanding portion 36 holding the span of pad 32 in place.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Allen H. Nguyen/

Examiner, Art Unit 2625

Conferees:

/King Y. Poon/

Supervisory Patent Examiner, Art Unit 2625

/Twyler L. Haskins/

Supervisory Patent Examiner, Art Unit 2625